

RECEIVED  
CENTRAL FAX CENTER

OCT 11 2007

**FAX TRANSMISSION**

DATE: October 11, 2007

PTO IDENTIFIER: Application Number 10/686,809  
Patent Number

Inventor: Nickel et al.

MESSAGE TO: US Patent and Trademark Office

FAX NUMBER: (571) 273-8300

FROM: ROPES & GRAY LLP  
Maya Escobar, Ph.D.

PHONE: (617) 951-7173

Attorney Dkt. #: ZIPH-009-102

PAGES (Including Cover Sheet): 4

CONTENTS: Fee Transmittal (1 page)  
Two Terminal Disclaimers (2 pages)  
Charge \$130.00 to deposit account 18-1945

If your receipt of this transmission is in error, please notify this firm immediately by collect call to sender at (617) 951-7173 and send the original transmission to us by return mail at the address below.

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited.

**ROPES & GRAY LLP**  
One International Place, Boston, Massachusetts 02110  
Telephone: (617) 951-7000 Facsimile: (617) 951-7050

OCT 11 2007

PTO/SB/17 (10-07)

Approved for use through 06/30/2010. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). <b>FEE TRANSMITTAL</b> <b>For FY 2008</b>		<b>Complete if Known</b> Application Number 10/686,809 Filing Date October 17, 2003 First Named Inventor Bernd Nickel Examiner Name J. D. Anderson Art Unit 1614 Attorney Docket No. ZIPH-009-102	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27			
<b>TOTAL AMOUNT OF PAYMENT</b> (\$) 130.00			

**METHOD OF PAYMENT** (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 18-1945 Deposit Account Name: Ropes & Gray LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Total Claims - 20 = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_  
 Fee Paid (\$)

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims - 3 = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_  
 Fee Paid (\$)

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets - 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_  
 Fee Paid (\$)

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): 2814 Statutory Disclaimer

130.00

<b>SUBMITTED BY</b>			
Signature		Registration No. (Attorney/Agent)	56,346
Name (Print/Type)	Mayra Escobar, Ph.D.	Telephone	(617) 951-7173
		Date	October 11, 2007

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted by facsimile to the Patent and Trademark Office, facsimile no. (571) 273-8300, on the date shown below.

Dated: 10/11/07

Signature: (Valerie J. Sarosky)

RECEIVED  
CENTRAL FAX CENTER

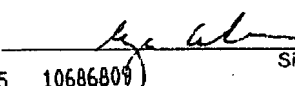
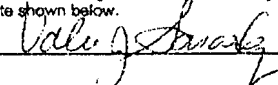
OCT 11 2007

PTO/SB/28 (04-07)

Approved for use through 09/30/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT</b>	Docket Number (Optional) <b>ZIPH-009-102</b>
<p>In re Application of: <b>Nickel et al.</b></p> <p>Application No.: <b>10/686,809</b></p> <p>Filed: <b>October 17, 2003</b></p> <p>For: <b>INDOLYL-3-GLYOXYLIC ACID DERIVATIVES HAVING THERAPEUTICALLY VALUABLE PROPERTIES</b></p> <p>The owner*, <b>ZIOPHARM Oncology, Inc.</b>, of <b>100</b> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent No. <b>6,693,119</b> as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent. "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:</p> <ul style="list-style-type: none"> <li>expires for failure to pay a maintenance fee;</li> <li>is held unenforceable;</li> <li>is found invalid by a court of competent jurisdiction;</li> <li>is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;</li> <li>has all claims canceled by a reexamination certificate;</li> <li>is reissued; or</li> <li>is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</li> </ul> <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input type="checkbox"/> For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.</p> <p style="padding-left: 40px;">I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record. Reg. No. <b>56,346</b></p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;">         Signature     </div> <div style="text-align: center;"> <b>October 11, 2007</b>        Date     </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="text-align: center;"> <b>Maya Escobar, Ph.D.</b>        Typed or printed name     </div> <div style="text-align: center;"> <b>(617) 951-7173</b>        Telephone Number     </div> </div> <p><input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) is included.</p> <p style="font-size: small;">*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.</p>	
<p>I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted by facsimile to the Patent and Trademark Office, facsimile no. (571) 273-8300, on the date shown below.</p> <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">       Dated: <b>10/11/07</b> </div> <div style="text-align: center;">       Signature:         (Valerie J. Sarosky)     </div> </div>	

10686072\_1.DOC